

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals  
for the Second Circuit, held at the Daniel Patrick Moynihan  
United States Courthouse, 500 Pearl Street, in the City of  
New York, on the 7<sup>th</sup> day of March, two thousand eight.

**PRESENT:**

HON. WILFRED FEINBERG,  
HON. JOSÉ A. CABRANES,  
HON. SONIA SOTOMAYOR,

*Circuit Judges.*

JINGJI LIU,  
*Petitioner,*

*v.*

MICHAEL B. MUKASEY, ATTORNEY  
GENERAL,<sup>1</sup>  
*Respondent.*

07-2718-ag  
NAC

<sup>1</sup>Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Attorney General Michael B. Mukasey is automatically substituted for former Attorney General Alberto R. Gonzales as the respondent in this case.

1     **FOR PETITIONER:**                 **Jie Han, New York, New York.**

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3     **FOR RESPONDENT:**                **Peter D. Keisler, Assistant Attorney**  
4                                       **General, Civil Division, Mary Jane**  
5                                       **Candaux, Assistant Director, Edward**  
6                                       **E. Wiggers, Trial Attorney, United**  
7                                       **States Department of Justice, Office**  
8                                       **of Immigration Litigation,**  
9                                       **Washington, District of Columbia.**

10  
11           UPON DUE CONSIDERATION of this petition for review of a  
12     decision of the Board of Immigration Appeals ("BIA"), it is  
13     hereby ORDERED, ADJUDGED, AND DECREED, that the petition for  
14     review is DENIED.

15           Petitioner Jingji Liu, a native and citizen of China,  
16     seeks review of the May 24, 2007 order of the BIA affirming  
17     the September 9, 2005 decision of Immigration Judge ("IJ")  
18     Noel Brennan pretermittting Liu's application for asylum, and  
19     denying her application for withholding of removal and  
20     relief under the Convention Against Torture ("CAT"). *In re*  
21     *Jingji Liu*, No. A96 205 534 (B.I.A. May 24, 2007), *aff'g* No.  
22     A96 205 534 (Immig. Ct. N.Y. City Sept. 9, 2005). We assume  
23     the parties' familiarity with the underlying facts and  
24     procedural history of the case.

25           When the BIA agrees with the IJ's conclusion that a  
26     petitioner is not credible and, without rejecting any of the  
27     IJ's grounds for decision, emphasizes particular aspects of  
28     that decision, this Court reviews both the BIA's and IJ's

1 opinions. *Yun-Zui Guan v. Gonzales*, 432 F.3d 391, 394 (2d  
2 Cir. 2005). The agency's "findings of fact are conclusive  
3 unless any reasonable adjudicator would be compelled to  
4 conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B).

5 As a preliminary matter, to the extent that Liu has not  
6 challenged the pretermission of her asylum application  
7 before this Court, or raised any argument regarding the  
8 denial of CAT relief, we deem those claims abandoned. See  
9 *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 541 n.1, 545 n.7  
10 (2d Cir. 2005). Accordingly we review only Liu's challenge  
11 to the denial of her application for withholding of removal.

12 We conclude that the agency's adverse credibility  
13 determination was supported by substantial evidence. The IJ  
14 based her adverse credibility determination in part on her  
15 observation of Liu's demeanor while testifying. The IJ  
16 noted instances where Liu was unresponsive to the specific  
17 questions asked of her. We accord particular deference to  
18 such findings. See *Li Hua Lin v. U.S. Dep't of Justice*, 453  
19 F.3d 99, 109 (2d Cir. 2006) (finding that the Court can be  
20 "more confident in [its] review of observations about an  
21 applicant's demeanor where . . . they are supported by  
22 specific examples of inconsistent testimony"); *Zhou Yun*  
23 *Zhang v. INS*, 386 F.3d 66, 73 (2d Cir. 2004), overruled in

1     *part on other grounds by Shi Liang Lin v. U.S. Dep't of*  
2     *Justice*, 494 F.3d 296, 305 (2d Cir. 2007) (en banc).

3             The agency also noted a contradiction between Liu's  
4     statement in her asylum application that she had suffered  
5     two involuntary abortions, and her testimony, in which she  
6     described only one abortion, and never mentioned a second  
7     abortion at all. Rather, when asked what happened after her  
8     abortion, Liu stated, "[n]othing extraordinary happened."  
9     Contrary to Liu's assertion that this omission was "not  
10    material," the agency could reasonably conclude that it was  
11    a dramatic inconsistency that went to the heart of her  
12    claim. See *Majidi v. Gonzales*, 430 F.3d 77, 81 (2d Cir.  
13    2005); *Secaida-Rosales v. INS*, 331 F.3d 297, 307 (2d Cir.  
14    2003). As such, the IJ did not err by failing to ask  
15    specifically why Liu had omitted any mention of the second  
16    alleged abortion. See *Majidi*, 430 F.3d at 81.

17            The IJ further found that Liu's testimony was  
18    internally inconsistent where she first testified that she  
19    resigned from her job voluntarily, but later stated that she  
20    lost her job. Moreover, whereas Liu initially stated that  
21    the abortion occurred in July 2003, later in her testimony  
22    and in her asylum application she indicated that the date  
23    was July 2000.

1           Together, these discrepancies provide substantial  
2 evidence in support of the agency's adverse credibility  
3 finding.   Moreover, while Liu attempted to provide  
4 explanations for these inconsistencies, including that she  
5 was "tense" and "confused," no reasonable fact-finder would  
6 have been compelled to accept them. *Wu Biao Chen v. INS*,  
7 344 F.3d 272, 275 (2d Cir. 2003).

8           Accordingly, the agency properly relied on these  
9 discrepancies where they were substantial when measured  
10 against the record as a whole. *Secaida-Rosales*, 331 F.3d at  
11 308-09.   Indeed, they call into question whether Liu ever  
12 experienced mistreatment, particularly an involuntary  
13 abortion, and therefore whether her fear of persecution is  
14 reasonable.   See *Zhou Yun Zhang*, 386 F.3d at 74.

15           While the IJ observed other more minor inconsistencies,  
16 as well as Liu's lack of corroboration, we need not reach  
17 these findings because the proper findings identified above  
18 were sufficient to support the overall adverse credibility  
19 determination.   Because Liu failed to establish past  
20 persecution due to her incredible testimony, she was not  
21 entitled to the presumption of a likelihood of persecution.  
22 See 8 C.F.R. § 1208.16(b)(1).   Furthermore, because the only  
23 evidence of a threat to Liu's life or freedom depended on

1 her credibility, the agency's denial of withholding of  
2 removal was proper. *Wu Biao Chen*, 344 F.3d at 275.

3 For the foregoing reasons, the petition for review is  
4 DENIED. As we have completed our review, any stay of  
5 removal that the Court previously granted in this petition  
6 is VACATED, and any pending motion for a stay of removal in  
7 this petition is DISMISSED as moot.

8 FOR THE COURT:  
9 Catherine O'Hagan Wolfe, Clerk  
10  
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12 By: \_\_\_\_\_